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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**
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12 EPIC GAMES, INC.,

13 *Plaintiff, Counter-defendant,*

14 v.

15 APPLE INC.,

16 *Defendant, Counterclaimant.*
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Case No. 4:20-cv-05640-YGR

**DECLARATION OF JOHN F. COVE,
JR. IN SUPPORT OF NON-PARTY
SONY INTERACTIVE
ENTERTAINMENT LLC'S
ADMINISTRATIVE MOTION TO KEEP
COMPETITIVELY SENSITIVE
INFORMATION UNDER SEAL**

Judge: Hon. Yvonne Gonzalez Rogers

1 I, John F. Cove, Jr., declare as follows:

2 1. I am a partner at the law firm of Shearman & Sterling LLP and am counsel to non-
3 party Sony Interactive Entertainment LLC (“SIE”) in connection with this litigation. I am a
4 member in good standing of the Bars of the States of New York and California, and a member of
5 the Bar of this Court. I make this declaration based on personal knowledge and, if called as a
6 witness, I could and would testify competently to the matters set forth herein.

7 2. Pursuant to Local Rule 79-5, I submit this declaration in support of SIE’s
8 Administrative Motion to Keep Competitively Sensitive Informative Under Seal.

9 3. On April 23, 2021, counsel for Apple for informed me that Apple had placed
10 certain developer materials that SIE had produced to Apple containing SIE confidential
11 information on its exhibit list. SIE moved to seal those motion on April 28, 2021, which motion
12 was denied.

13 4. Also on April 28, 2021, Counsel for Epic notified me that “Epic and Apple filed
14 Expert Written Direct Examinations and Four-Hour Deposition Designation Binders which may
15 contain information that Sony designated as confidential or highly confidential or in which Sony
16 has a confidentiality interest.” Counsel for Epic confirmed that “Pursuant to Local Rule 79-5 and
17 FRCP 6(a), Sony has until 11:59 p.m. PT, Monday, May 3, to submit to the Court a declaration in
18 support of sealing should Sony wish to maintain the confidentiality of that information.” On April
19 29, counsel for Epic informed me that there were additional documents on Apple’s witness list
20 that Epic had produced to Apple that contained SIE confidential information.

21 5. On May 2, I communicated with counsel for Apple and Epic to ask if they would
22 oppose SIE’s motion to seal in part the documents described below. Counsel for Epic indicated
23 that Epic would not oppose SIE’s motion. Counsel for Apple indicated that they could not take a
24 position until they saw the motion.

25 6. Attached hereto as Exhibit A is a true and correct copy of a document produced by
26 Epic, bearing bates numbers EPIC_01983020 – EPIC_01983026, which Apple has listed on its
27 trial exhibit list as DX-3660, with proposed redactions identified by Don Sechler as indicated by
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1 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

3 7. Attached hereto as Exhibit B is a true and correct copy of a document produced by
4 Epic, bearing bates numbers EPIC_00012102 – EPIC_00012103, which Apple has listed on its
5 trial exhibit list as DX-3865, with proposed redactions identified by Don Sechler as indicated by
6 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
7 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

8 8. Attached hereto as Exhibit C is a true and correct copy of a document produced by
9 Epic, bearing bates numbers EPIC_03848245 – EPIC_03848251, which Apple has listed on its
10 trial exhibit list as DX-3988, with proposed redactions identified by Don Sechler as indicated by
11 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

13 9. Attached hereto as Exhibit D is a true and correct copy of a document produced by
14 Epic, bearing bates numbers EPIC_01983157 – EPIC_01983164, which Apple has listed on its
15 trial exhibit list as DX-4425, with proposed redactions identified by Don Sechler as indicated by
16 the red boxes. This document was designated by Epic as “CONFIDENTIAL” pursuant to the
17 governing protective order.

18 10. Attached hereto as Exhibit E is a true and correct copy of a document produced by
19 Epic, bearing bates numbers EPIC_03367885 – EPIC_03367887, which Apple has listed on its
20 trial exhibit list as DX-4493, with proposed redactions identified by Don Sechler as indicated by
21 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
22 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

23 11. Attached hereto as Exhibit F is a true and correct copy of a document produced by
24 Epic, bearing bates numbers EPIC_02021466 – EPIC_02021472, which Apple has listed on its
25 trial exhibit list as DX-4519, with proposed redactions identified by Don Sechler as indicated by
26 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.
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